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HOUSE BILL 1193

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

William "Bill" R. Rehm

AN ACT

RELATING TO ALCOHOL; PROVIDING PENALTIES FOR THE OFFENSE OF
SERVING ALCOHOLIC BEVERAGES TO A MINOR.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 60-7B-1 NMSA 1978 (being Laws 1993,
Chapter 68, Section 22, as amended) is amended to read:

"60-7B-1. SELLING OR GIVING ALCOHOLIC BEVERAGES TO
MINORS--POSSESSION OF ALCOHOLIC BEVERAGES BY MINORS.--

A. It is a violation of the Liquor Control Act for
a person, including a person licensed pursuant to the
provisions of the Liquor Control Act, or an employee, agent or
lessee of that person, if ~~he~~ the person knows or has reason
to know that ~~he~~ the person is violating the provisions of
this section, to:

- (1) sell, serve or give alcoholic beverages to

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1 a minor or permit a minor to consume alcoholic beverages on the
2 licensed premises;

3 (2) buy alcoholic beverages for or procure the
4 sale or service of alcoholic beverages to a minor;

5 (3) deliver alcoholic beverages to a minor; or

6 (4) aid or assist a minor to buy, procure or
7 be served with alcoholic beverages.

8 B. It is not a violation of the Liquor Control Act,
9 as provided in Subsection A or C of this section, when:

10 (1) a parent, legal guardian or adult spouse
11 of a minor serves alcoholic beverages to that minor on real
12 property [~~other than licensed premises~~] under the control of
13 the parent, legal guardian or adult spouse or on licensed
14 premises; or

15 (2) alcoholic beverages are used in the
16 practice of religious beliefs.

17 C. It is a violation of the Liquor Control Act for
18 a minor to buy, attempt to buy, receive, possess or permit
19 [~~himself~~] the minor to be served with alcoholic beverages.

20 D. When a person other than a minor procures
21 another person to sell, serve or deliver alcoholic beverages to
22 a minor by actual or constructive misrepresentation of facts or
23 concealment of facts calculated to cause the person selling,
24 serving or delivering the alcoholic beverages to the minor to
25 believe that the minor is legally entitled to be sold, served

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1 or delivered alcoholic beverages, and actually deceives that
2 person by that misrepresentation or concealment, then the
3 procurer and not the person deceived shall have violated the
4 provisions of the Liquor Control Act.

5 E. As used in the Liquor Control Act, "minor" means
6 a person under twenty-one years of age.

7 F. In addition to the penalties provided in Section
8 60-6C-1 NMSA 1978, ~~[a]~~ the first violation of the provisions of
9 Subsection A of this section is a misdemeanor and the offender
10 shall be sentenced pursuant to the provisions of Section
11 31-19-1 NMSA 1978 if the volume of alcoholic beverage is:

12 (1) five hundred milliliters or less of
13 spirits;

14 (2) one liter or less of wine; or

15 (3) one quart or less of beer.

16 G. Violation of the provisions of Subsection A of
17 this section is a fourth degree felony and the offender shall
18 be sentenced pursuant to the provisions of Section 31-18-15
19 NMSA 1978 if the volume of alcoholic beverage is:

20 (1) more than five hundred milliliters of
21 spirits;

22 (2) more than one liter of wine; or

23 (3) more than one quart of beer.

24 ~~[G.]~~ H. A violation of the provisions of Subsection
25 C of this section is a misdemeanor and the offender shall be

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[bracketed material] = delete

1 punished as follows:

2 (1) for a first violation, the offender shall
3 be:

4 (a) fined an amount not more than one
5 thousand dollars (\$1,000); and

6 (b) ordered by the sentencing court to
7 perform thirty hours of community service related to reducing
8 the incidence of driving while under the influence of
9 intoxicating liquor;

10 (2) for a second violation, the offender
11 shall:

12 (a) be fined an amount not more than one
13 thousand dollars (\$1,000);

14 (b) be ordered by the sentencing court
15 to perform forty hours of community service related to reducing
16 the incidence of driving while under the influence of
17 intoxicating liquor; and

18 (c) have [~~his~~] the offender's driver's
19 license suspended for a period of ninety days. If the minor is
20 too young to possess a driver's license at the time of the
21 violation, then ninety days shall be added to the date [~~he~~] the
22 offender would otherwise become eligible to obtain a driver's
23 license; and

24 (3) for a third or subsequent violation, the
25 offender shall:

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underscoring material = new
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1 (a) be fined an amount not more than one
2 thousand dollars (\$1,000);

3 (b) be ordered by the sentencing court
4 to perform sixty hours of community service related to reducing
5 the incidence of driving while under the influence of
6 intoxicating liquor; and

7 (c) have ~~[his]~~ the offender's driver's
8 license suspended for a period of two years or until the
9 offender reaches twenty-one years of age, whichever period of
10 time is greater.

11 ~~[H.]~~ I. A violation of the provisions of Subsection
12 D of this section is a fourth degree felony and the offender
13 shall be sentenced pursuant to the provisions of Section
14 31-18-15 NMSA 1978."